

**IN THE HIGH COURT OF PUNJAB AND HARYANA AT
CHANDIGARH**

C.R. No.1349 of 2005

Date of Decision:- 07.12.2006

Madan Lal

....Petitioner

through
Mr.R.S.Bajaj, Advocate.

vs.

Narinder Syal

....Respondent

through
Mr.G.S.Sandhawalia, Advocate.

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

SURYA KANT, J.

This revision petition is directed against the order dated 16.2.2005 whereby an application under Order 9 Rule 13 CPC moved by the petitioner to set aside ex parte eviction order dated 16.11.1992, has been dismissed by the learned Rent Controller, Jalandhar.

At the outset, learned counsel for the respondent-landlord has taken a preliminary objection regarding maintainability of this revision petition. Relying upon a judgment of this Court in the case of **The Punjab State Co-operative Bank Ltd. and another vs. Shri Baldev Krishan** (1994-1) PLR 627, it is contended that the order dated 16.2.2005 passed by the learned Rent Controller, Jalandhar is appealable.

Learned counsel for the respondent takes a fair stand that in case the petitioner files an appeal within some reasonable period, the respondent, keeping in view Section 14 of the Limitation Act, shall not raise an objection with regard to the appeal being time barred and/or its maintainability.

In view of the above-stated stand taken by learned counsel for the respondent, learned counsel for the petitioner seeks permission to withdraw this petition to enable the petitioner to prefer an appeal.

Consequently, the revision petition is dismissed as withdrawn with liberty to file an appeal, however, with a direction that in case the appeal is preferred by the petitioner within one month from today the interim order dated 10.3.2005 passed by this Court in this revision petition shall continue to operate till the appeal is decided on merits.

December 07, 2006
poonam

(SURYA KANT)
JUDGE